

REMARKS/ARGUMENTS

The specification has been conformed to correspond to the preferred format for U.S. patent applications as required in the Office Action, and a Substitute Specification and Comparison Copy are submitted herewith.

Claims 1-10 are presently pending in this application.

Applicant has noted the provisional obviousness-type double patenting rejection of the claims over copending applications Nos. 10/054,116 and 10/054,119. Applicant will file appropriate terminal disclaimers in this or the other applications once patentable subject matter has been identified in at least two of the applications.

All claims were rejected for obviousness over Baskins (4,549,080) because Baskins was viewed as suggesting the provision of a hollow structure, a gas filter, a mounting structure, the needed optics, including sealed windows, and filling the tube with gas.

Claim 1 has been amended by combining it with dependent claims 2-5 to specifically direct claim 1 to the features of the present invention which permit the connection of the elongated hollow structure, that includes the filter, to the support tube, which in turn is mounted to the duct or chimney while maintaining the interior of both sealed from the exterior so that a vacuum can be maintained on the inside, the inside can be filled with a neutral gas, the entry of all contaminants is prevented, and the optical window between the elongated hollow structure and the support tube is prevented from fogging up by a ring heater.

Although Baskins discusses a heating arrangement, it is for heating the filters in the filter wheel (39), which form part of the optical analyzer, for the purpose of stabilizing the frequency of the filters 56-59 (col. 8, lines 43-44). In contrast, the heater of the present invention is provided for heating window (50) between the elongated hollow structure (30) and the support tube (42) for the purpose of preventing condensation on the window. Thus, Baskins provides no motivation or suggestion to one of ordinary skill in the art to construct a probe as recited in claim 1.

Applicant further submits new independent claim 10, which is a combination of original claims 1, 6 and portions of claims 8 and 9. Amongst others, claim 10 recites that an intermediate space is formed between support tube 42 and inner tube 116 through which all lines and electrical leads associated with the probe of the present invention extend.

Baskins contains no teaching whatsoever concerning the concentric tube arrangement and instead refers to continuously purging the tube of Baskins with dry air or nitrogen, as is set forth in column 8, lines 46-49. Thus, Baskins contains no suggestion of sealing the inner tube and routing the connection for the probe through an intermediate space formed between the inner tube and the support tube.

In view of the foregoing, applicant submits that claims 1 and 10 are not obvious.

The dependent claims have been amended so that claims 2-5 now depend from new claim 10, and claims 6-9 continue to depend from claim 1. Since these claims are directed to independently patentable subject matter, as is discussed above in connection with claims 2-5 incorporated in claim 1, and the claims further depend from allowable parent claims, they too are in condition for allowance.

Application No. 10/054,516
Amendment dated May 7, 2004
Reply to Office Action of December 11, 2003

PATENT

CONCLUSION

Accordingly, this application now in condition for allowance, and a corresponding notification at an early date is requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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